

M. Delay in Updating U.S. Citizenship Designation in Records; Some Naturalized Citizens Cannot Apply for Passports

Currently, the USCIS standard operating procedure after a naturalization ceremony is to update its database one or two days later with information that certain individuals obtained citizenship. If information about the newly naturalized citizen differs from information related to the citizen in another USCIS database, the immigration officer has ten days to resolve the differences and update the records.⁶⁴ The delay in inputting data and lengthier delays in correcting differences in the records can cause problems for affected individuals, particularly for those who immediately apply for U.S. passports. These individuals often encounter suspicious government officials who cannot immediately verify citizenship status electronically. In such cases, passport officials must contact USCIS to confirm applicants' status forcing USCIS to spend additional time and resources to research and confirm that the individual was naturalized.

III. USCIS REVENUE

Congress mandates that USCIS be self-funded.⁶⁵ Following the requirement that INS recover full operational costs, the agency requested increases in its fee schedules to recover those costs. Not all fee increase requests were approved, but there was a general recognition that higher fees per application were justified to recover costs incurred for providing non-fee INS services. At the same time, Congress required that INS add a surcharge to certain filing fees to recover the costs of providing services to individuals unable to pay. In later years, the surcharge extended to fund asylum and refugee applications as well as military naturalizations.⁶⁶

Simultaneously, case processing backlogs caused alarm. In 2001, the Administration required that INS improve its slow processing time to six months or less for all applications within five years.⁶⁷ Congress appropriated \$500 million over five years from FY 02 through FY 06 to accomplish that task. However, the underlying objective of achieving faster processing times was undermined by the need for revenue to support the agency.

Applications for ancillary services necessitated by the backlogs generated substantial additional revenue estimated to be in excess of \$350 million in FY 05,⁶⁸ particularly from three sources: (1) EAD applications for green card applicants;⁶⁹ (2) advance parole applications; and (3) premium processing for nonimmigrant employment based applicants (Form I-129). USCIS

⁶⁴ See DHS IG Report "USCIS Faces Challenges in Modernizing Information Technology," at 17 (describing that "[a]ccording to one USCIS official, about 700 of the 5,000 naturalizations performed in one ceremony were identified on a mismatch report . . .").

⁶⁵ See 8 U.S.C. 1356 (m), establishing an "Immigration Examinations Fee Account"; see also Homeland Security Act Amendments of 2003, Pub. L. No. 108-7, at § 107, repealing section 457 of the Homeland Security Act of 2002.

⁶⁶ See generally 63 Fed. Reg. 1775 (Jan. 12, 1998).

⁶⁷ See *supra* note 13.

⁶⁸ See *supra* Figure 7.

⁶⁹ An applicant for a green card is required to be issued an EAD within 90 days after an application for the EAD, which can be filed simultaneously with the green card application. See 8 C.F.R. § 274a.13(d).